

MEMORANDUM

October 25, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ELIZABETH M. KESSEL
Kessel & Associates

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Division

RE: Christian B. and Jessica B. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 281362

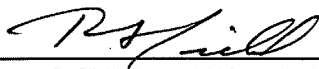
DATE OF
INCIDENT: August 1998 to November 2000

AUTHORITY
REQUESTED: \$450,000

COUNTY
DEPARTMENT: Department of Children and Family Services

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☒ Recommend to Board of Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on November 7, 2005

SUMMARY

This is a recommendation to settle for \$450,000 a lawsuit filed by siblings, Christian B. and Jessica B., who were subjected to abuse and neglect in the home of their maternal aunt while they were under the supervision of the Department of Children and Family Services ("DCFS").

LEGAL PRINCIPLE

A public entity and its employees who supervise dependent children of the Juvenile Court may be held liable for injuries to those children, if the employees fail to discharge a duty that is mandated by a statute, the statute is intended to protect against the kind of risk suffered by the child, and the breach of the mandatory duty is a proximate cause of the injury.

SUMMARY OF FACTS

Christian and Jessica, now ages 11 and 12 respectively, became dependents of the court in 1993 and 1994 after they were born suffering from cocaine and alcohol withdrawal. They were placed in the home of their maternal aunt.

In October 1995, their aunt notified DCFS that she would be moving to Sacramento with Christian, Jessica, and four of their siblings, who already had been adopted or were in the process of being adopted by the aunt. Sacramento County Department of Health & Human Services ("DHHS") agreed to accept courtesy supervision, and provided courtesy supervision to the family from November 1995 to June 1996.

On June 17, 1996, Christian and Jessica were removed from their aunt's home due to various allegations of physical abuse by her. Due to the allegations, Sacramento County terminated courtesy supervision, and the children were placed into foster care in Los Angeles County.

The aunt completed parenting classes and continued to express an interest in having Christian and Jessica returned to her care. On September 25, 1997, despite the refusal of DHHS to provide courtesy supervision, Christian and Jessica were returned to their aunt's care in Sacramento.

Between January 1998 and August 1998, Children's Social Workers ("CSWs") from DCFS made monthly visits to Christian and Jessica. After August 1998, no further CSW visits occurred.

On October 30, 2000, DHHS received an Emergency Response referral alleging that Christian's school teacher had observed lacerations on his wrists. DHHS investigated the referral and substantiated that the children were again the subjects of physical abuse by their aunt. As a result of the findings, Christian, Jessica and their siblings were detained, and Christian and Jessica were returned to Los Angeles where they have remained in foster care. Their aunt was arrested and convicted for endangering the life and health of a child. She was incarcerated for two years.

Christian and Jessica received medical care for their injuries, but Christian continues to have scars on his wrists and stomach. Christian and Jessica also continue to receive psychological therapy for the emotional trauma they sustained from living with their aunt.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages for Christian and Jessica could be as follows:

Christian's pain and suffering	\$1,000,000
Jessica's pain and suffering	<u>\$1,000,000</u>
Total	<u>\$2,000,000</u>

The settlement calls for the County to pay \$450,000 to Christian and Jessica for all of their claims for damages, costs and attorneys' fees. In addition, Sacramento County will pay \$450,000 to Christian and Jessica, for a total settlement of \$900,000.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the recommended settlement.

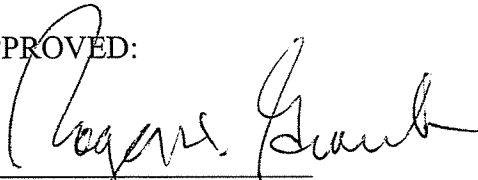
The plaintiffs' demand at the first mediation in this case was \$6 million. Therefore, the case had to be fully prepared for trial. Thousands of pages of documents were compiled and reviewed. Numerous witnesses were located and interviewed. In addition, numerous depositions were taken in the case, including multiple depositions in Sacramento County of Sacramento County employees. At the second mediation in the case, after discovery had been completed, the proposed settlement was finally reached. Expenses incurred by the County in defense of this matter are attorneys' fees of \$183,582 and \$34,072 in costs.

EVALUATION

This is a case of probable liability. DCFS did not make a visit to Christian and Jessica for 26 months, during which time it appears that they continued to be abused and neglected by their aunt. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could far exceed the proposed settlement.

We join with our private counsel, Kessel and Associates, and our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$450,000. The Department of Children and Family Services concurs in the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Service Division

RHG:scr